

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MONTE GUESS,

CIVIL DIVISION

Plaintiff;

Docket No.:

vs.

CITY OF PHILADELPHIA,

COMPLAINT IN CIVIL ACTION

Defendant.

Filed on behalf of Plaintiff:
MONTE GUESS

Counsel of Record for this Party:
Steven Auerbach, Esquire
Law Office of Steven T. Auerbach
822 Montgomery Ave.
Suite 210
Narberth, PA. 19072
Ph: (215) 964-4410
Fax: (610) 667-7305
Steven@TheAuerbachFirm.com
Pa. I.D. #317309

JURY TRIAL DEMANDED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MONTE GUESS,)	CIVIL DIVISION
Plaintiff;)	
)	Docket No.:
vs.)	
)	
CITY OF PHILADELPHIA,)	
<u>Defendant.</u>)	

I. COMPLAINT IN CIVIL ACTION

Monte Guess (“Mr. Guess” or “Plaintiff”), by his attorney, Steven Auerbach, complaining of City of Philadelphia (“Defendant” or “Employer”), alleges:

II. INTRODUCTION

1. This action is brought to remedy claims of employment discrimination on the basis of sex and retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.* and under the Pennsylvania Human Relations Act, 43 PA. Cons. Stat. § 951 *et seq.*
2. Plaintiff seeks injunctive and declaratory relief, economic, compensatory, attorneys’ fees and all other appropriate relief pursuant to governing law.

III. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1343(a) (4) because it arises under the laws of the United States and seeks redress for violation of federal laws. There lies supplemental jurisdiction over Plaintiff’s state-law claims because they arise out of the same common nucleus of operative facts as Plaintiff’s federal claims asserted herein.
4. This Court may properly maintain personal jurisdiction over Defendant because its contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over

Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

5. Pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and Defendants are deemed to reside where they are subject to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.

IV. PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff Monte Guess is an adult individual who resides in Philadelphia, Pennsylvania.

8. At all times relevant to this action, Plaintiff was and remains an “Employee” of the Defendant within the meaning of 42 U.S.C. §2000e-f and related state law(s).

9. Defendant City of Philadelphia is a political subdivision organized under the laws of Pennsylvania with a principal place of business in Philadelphia, Pennsylvania.

10. Defendant was and remains an “Employer” of the Plaintiff within the meaning of 42 U.S.C. §2000e-(b), (g), and (h) and related state law(s).

11. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

12. Defendant has and continues to employ over five hundred (500) employees per calendar year for at least the last five (5) years, and Defendant engages in a variety of revenue-generating, business relationships.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

14. Plaintiff has exhausted his administrative remedies.

15. On October 4, 2018, Plaintiff filed a complaint of hostile work environment, sexual harassment, and retaliation with the Mayor's Office of Labor Relations ("Office of Labor Relations") against his supervisor and agent of Defendant, Sheriff Jewell Williams ("Sheriff Williams").

16. Plaintiff then filed a timely initial charge of employment discrimination with the United States Equal Employment Opportunity Commission ("EEOC") on December 26, 2018 and directed same to cross-file with the Pennsylvania Human Relations Commission ("PHRC").

17. Plaintiff received his Right to Sue Notice from the EEOC on April 18, 2019. A true and correct copy of this notice is attached hereto as Exhibit 1.

18. Plaintiff commenced and initial, un-amended action within ninety (90) days of receipt of his Right to Sue Notice.

VI. FACTUAL ALLEGATIONS

19. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

20. In May of 1998 and extending through the present (the "Term of Employment"), Plaintiff worked for Defendant in a variety of capacities.

21. During the Term of Employment, Plaintiff was subject to harassing and discriminatory conduct related to sex.

22. On or after December 2013, Sheriff Williams became aware that Plaintiff was in a romantic relationship with another Employee, Marlaina Williams¹. From that point forward, Sheriff Williams expressed his disapproval and jealousy of this relationship in a variety of ways:

- a) I'm jealous that he [Plaintiff] gets to go home with you [Marlaina Williams] and not me; and
- b) I'm hating on your relationship; and
- c) You [Marlaina Williams] should leave him [Plaintiff] and be with me; and
- d) How could you [Marlaina Williams] work for me and date someone in my office; and
- e) I'm gonna transfer your boyfriend [Plaintiff] and put him on the overnight shift so y'all can't spend any time together; and
- f) Your son [Marlaina Williams' son] should really be mine and your name should really be Marliana Jewell Williams; and
- g) I haven't had sex in two years, so if I'm not happy no one's gonna be happy.

23. In addition to statements made directly by Sheriff Williams, an atmosphere was purposefully created wherein other employees felt at liberty to discuss intimate details of Plaintiff's relationship.

24. In further response to Plaintiff's relationship, Jewell Williams levied false accusations against Plaintiff alleging that he was an FBI informant "out to get him." This was calculated to adversely affect Plaintiff's reputation with his colleagues and this conduct persisted notwithstanding Plaintiff's protests.

¹ Not related to Sheriff Jewell Williams.

25. As a consequence of Sheriff Williams' unlawful actions/inactions, Marlaina Williams and other employees such as Vanessa Bines and Dolores Ramos filed related complaints with the Office of Labor Relations, EEOC, and with the Eastern District of Pennsylvania.

25. These individuals named Plaintiff as a witness to support their allegations of sexual harassment.

26. On multiple occasions subsequent to the above-referenced individuals' filing of complaints, Sheriff Williams attempted to intimidate Plaintiff from participating as a cooperating witness and to otherwise coerce Plaintiff into preventing these cases from progressing.

27. Jewell Williams retaliated against Plaintiff in a variety of ways incident his participation as a witness and refusal to prevent others from exercising their protected rights.

28. After Marlaina Williams filed her complaint, Plaintiff was removed from his position from Internal Affairs as well as other assignments and was led to believe that he would be removed from his position in the DART Unit as well.

29. Sheriff Williams, or his assignee, then levied and circulated false accusations that Plaintiff had sexually harassed an employee, was gay, and was a pimp.

30. In the summer of 2018, all individuals who held Plaintiff's position were promoted except for Plaintiff.

31. In further retaliation Sheriff Williams openly expressed to others in and around the office of his intention to "get" Plaintiff after his reelection.

COUNT I: GUESS V. CITY OF PHILADELPHIA
Violations of Title VII of the Civil Rights Act of 1964 ("Title VII")
Violations of the Pennsylvania Human Relations Act ("PHRA")
(Sex)

32. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

33. In violation of Title VII of the Civil Rights Act of 1964 and PHRA, Defendant discriminated against Plaintiff on the basis of her sex and by failing to protect him from pier/supervisor misconduct.

34. Defendant acted knowingly, willfully, and/or negligently in violation of these Acts.

35. Plaintiff has suffered and continues to suffer irreparable mental and physical injury as well as monetary damages as a result of Defendant's discriminatory conduct as described herein.

COUNT II: GUESS V. CITY OF PHILADELPHIA
Violations of Title VII of the Civil Rights Act of 1964 ("Title VII")
Violations of the Pennsylvania Human Relations Act ("PHRA")
(Retaliation)

36. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

37. In violation of Title VII of the Civil Rights Act of 1964 and the PHRA, Defendant retaliated against Plaintiff for failing to suppress others from exercising their legal rights and from testifying adversely against his supervisor.

38. Defendant acted knowingly, willfully, and/or negligently in violation of these Acts.

39. Plaintiff has suffered and continues to suffer irreparable mental and physical injury as well as monetary damages as a result of Defendant's retaliatory conduct as described herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter an Order providing:

- a. That the Court issue a declaratory judgment that the acts, policies, and practices complained herein are in violation of Title VII and the PHRA; and
- b. That the Court enjoin Defendant from continuing its acts, policies, and practices which violate Title VII and the PHRA; and

05/07/2019 13:55

(FAX)

P.001/001

- c. Directing Defendant to reinstate Plaintiff to the position he would have occupied but for Defendant's unlawful conduct, making her whole for all earning she would have received but for Defendant's unlawful conduct, including but not limited to wages, bonuses and other lost benefits; and
- d. Directing Defendant to make Plaintiff whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, with interest, in amounts to be determined at trial pursuant; and
- e. Directing Defendant to make Plaintiff whole by providing compensation for past and future non-pecuniary losses caused by the above unlawful conduct, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial; and
- f. Granting such other relief as the Court deems necessary and proper.

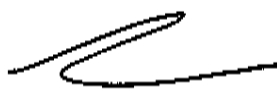
DEMAND FOR TRIAL BY JURY

Pursuant to FRCP 38(b), Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated: 5/3/19

Respectfully Submitted,

By:


 _____/s
 Steven Auerbach
 822 Montgomery Ave.
 Suite 210
 Narberth, PA. 19072
 Ph: (215) 964-4410
 Fax: (610) 667-7305

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

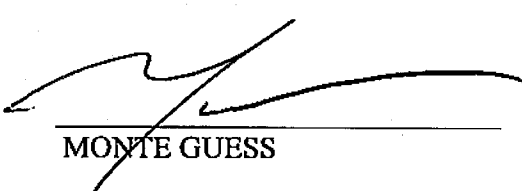
MONTE GUESS,)	CIVIL DIVISION
Plaintiff;)	
)	Docket No.:
vs.)	
)	
CITY OF PHILADELPHIA,)	
<u>Defendant.</u>)	

VERIFICATION

I, Monte Guess, hereby state I am the plaintiff in this action, and I verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 28 U.S.C. §1746 relating to unsworn falsification to authorities.

Dated: _____

5/3/19



MONTE GUESS

Exhibit 1

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Mr. Monte Guess**
4217 Mill Steet
Philadelphia, PA 19136

From: **Philadelphia District Office**
801 Market Street
Suite 1300
Philadelphia, PA 19107

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

530-2019-01477

Legal Unit,
Legal Technician

(215) 440-2828

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

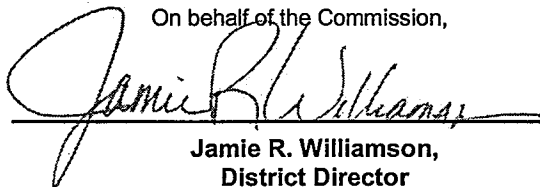
☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission,


Jamie R. Williamson,
District Director

April 17, 2019

(Date Mailed)

Enclosures(s)

CC:

Linda Busillo
Senior Legal Assistant Supervisor
PHILADELPHIA LAW DEPARTMENT
1515 Arch Street, 16th Floor
Philadelphia, PA 19102

Steven T. Auerbach, Esq.
LAW OFFICE OF STEVEN T. AUERBACH
822 Montgomery Avenue, Suite 210
Narberth, PA 19072

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Monte Gues

DEFENDANTS

City of Philadelphia

(b) County of Residence of First Listed Plaintiff

Philadelphia

County of Residence of First Listed Defendant

Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Law Office of Steven T. Averbach
822 Montgomery Ave. Suite 210
Narberth, PA 19072 (215) 964-4400

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII (and PHRA)

Brief description of cause:

Employment Discrimination + Retaliation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

\$495,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5/3/19

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Monte Gues v. City of Philadelphia	: : : : :	CIVIL ACTION NO.
--	-----------------------	-------------------------------------

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>5/5/19</u> Date	<u>Steven T. Averbach</u> Attorney-at-law	<u>Plaintiff</u> Attorney for
<u>(215) 984-4410</u> Telephone	<u>(610) 667-7305</u> FAX Number	<u>Averbach.Steven@gmail.com</u> E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 4217 Mill Street, Philadelphia, PA 19136
Address of Defendant: One Parkway, 14th Floor, 1515 Arch Street, Philadelphia, PA 19102
Place of Accident, Incident or Transaction: Philadelphia

RELATED CASE, IF ANY:

Case Number: X Judge: X Date Terminated: X

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/03/2019

[Signature]
Attorney-at-Law / Pro Se Plaintiff

317309

Attorney I.D. # (if applicable)

CIVIL: (Place a ☒ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☒ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Steven Auerbach, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 05/03/2019

[Signature]
Attorney-at-Law / Pro Se Plaintiff

317309

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.